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Shockley

Amendments to Senate Bill No. 31  
1st Reading CopyRequested by Senator ~~Dan McGee~~

For the Senate Judiciary Subcommittee on SB 31 &amp; SB49

Prepared by Valencia Lane  
January 22, 2007 (2:48pm)

~~McGee's~~  
take out  
Section 1 of  
bill +  
make it a  
Preamble

1. Page 1, line 11.

**Following:** line 10

**Insert:** "WHEREAS, the Legislature recognizes that the right of parents to the custody and control of their children is based upon the liberties secured by the United States and Montana Constitutions and that a parent's right to that custody and control is therefore normally supreme to the interests of other persons; and

WHEREAS, the Legislature also recognizes a growing phenomenon in which absent or otherwise unavailable parents have temporarily surrendered the custody and care of a child to a grandparent or other caretaker relative for a lengthy period of time; and

WHEREAS, the Legislature finds that a caretaker relative frequently offers a child a loving, stable, and secure environment in which to live, make friends, and attend school, which is an environment not provided by a parent who temporarily abandons a child; and

WHEREAS, a child is deprived of that caring and safe environment when a parent returns to claim the child with little or no notice to the caretaker relative; and

WHEREAS, this situation, which in some instances has occurred multiple times with the same child, is disruptive to the more stable life offered by the caretaker relative and may violate the child's rights ensured by Article II, section 15, of the Montana Constitution, such as the right under Article II, section 3, of the Montana Constitution of seeking safety, health, and happiness; and

WHEREAS, for these reasons, it is the purpose of [this act] to exercise the Legislature's police powers for the health and welfare of children who have been abandoned by their parents to the care of relatives and to create a procedure, applicable in limited situations caused by the voluntary surrender of a child by a parent, under circumstances indicating abandonment, whereby a child in the care of a relative may remain with that relative while the issue of abandonment by the parent is reviewed and determined by a court of law; and

WHEREAS, the Legislature believes that this temporary infringement on the right of a parent to the custody and control of a minor child is justified by the possibility of abandonment

by the parent, because the welfare of the child is at stake, and because of the likely violation of the child's rights ensured by Article II, section 15, of the Montana Constitution."

2. Page 1, line 14 through page 2, line 9.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

3. Page 4, line 30.

**Following:** line 29

**Insert:** "(9) As used in this section, the following definitions apply:

(a) "Caretaker relative" or "relative" means an individual related to a child by blood, marriage, or adoption by another individual and who has care and custody of a child but who is not a parent, foster parent, stepparent, or legal guardian of the child.

(b) "Parent" means a biological or adoptive parent or other legal guardian of a child."

4. Page 5, line 1.

**Strike:** "[Sections 1 and 2] are"

**Insert:** "[Section 1] is"

5. Page 5, line 2.

**Strike:** "[sections 1 and 2]"

**Insert:** "[section 1]"

6. Page 2, line 5.

**Strike:** "2(8)(b)"

**Insert:** "1(8)(b)"

7. Page 5, line 7.

**Strike:** "2(8)"

**Insert:** "1(8)"

8. Page 5, line 10.

**Following:** "relative"

**Strike:** ", all as defined in [section 1],"

- END -